PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number (Optional) ITL.0248US (P7373)	
I hereby certify that this corespondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR on ___April 10, 2006___ Signature _Cynthia L. Hayden_ Typed or printed name ___Cynthia L. Hayden___	Application Number 09/466,113	Filed December 17, 1999
	First Named Inventor James P. Ketrenos	
	Art Unit 2145	Examiner Adnan Mirza

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
        Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
    See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
    (Form PTO/SB/96)

☑ attorney or agent of record.
    Registration number ___28,994___

☐ attorney or agent acting under 37 CFR 1.34.
    Registration number if acting under 37 CFR 1.34 _____

___Signature___

___Timothy N. Trop___
Typed or printed name

___(713) 468-8880___
Telephone number

___April 10, 2006___
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☑ *Total of ___1___ _ forms are submitted.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: James P. Ketrenos et al.	§ § §	Art Unit: 2145
Serial No.: 09/466,113	§ §	Examiner: Adnan Mirza
Filed: December 17, 1999	§ § §	Atty Docket: ITL.0248US P7373
For: Distributed File System Including Multicast Retrieval	§ § § §	Assignee: Intel Corporation

Mail Stop **AF**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

STATEMENT IN SUPPORT OF
PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

Claim 1 calls for identifying whether a portion of a file system received by the client is stored in a first location associated with portions of the file system that have previously been stored by the client or whether that portion is stored in a second location associated with portions of a file system that were streamed to the client by a server.

At a minimum then, the cited references must teach a system which stores portions of a file system streamed to the client in one location and portions that have been previously stored in another location. Secondly, the reference must teach identifying which of these two situations applies to a given stored portion.

Neither of the above items is described in any of the cited references. Stakutis is apparently cited for teaching of receiving a request for a portion of a file system by a client. It is

conceded that Stakutis does not teach identifying whether the portion is stored in a first or a second location. It is apparently conceded that Wlaschin also does not teach this.

In the final rejection, the following assertions were made which do not seem to meet the scope of the claimed invention:

1. "Stakutis disclosed, 'It is preferable to know exactly each file is laid out on the shared peripheral device, e.g., disk.'" Response to Arguments, paragraph 15, page 5. However, nothing is cited to explain where this comes from. Moreover, even if it is preferable to know how every file is laid out, this has nothing to do with file systems and nothing to do with determining whether a portion of a file system is stored in a location associated with file systems that have been previously stored at a location or a location that stores portions that were streamed. It does not even teach the concept of storing streamed and previously stored portions in differently identifiable locations. It simply does not meet the scope of the claimed invention.

2. "Application programs make requests based on logical file blocks. The file system present to an application abstraction of a file that appears to be a series of contiguous blocks. In reality the file system allocates physical pieces of the disk drive separately and knits them together in a variety of file system specific trees and directories and maps (and other structures). While a logical-block x might reside on a physical block y, the block x+1 might live in an entirely different area." Citing column 6, lines 50-60. Again, this is interesting, but it does not seem to have any bearing on subject matter within the claimed scope. It does not teach what is claimed, it just teaches how file systems allocate data. It does not teach the specific allocation of data and the specific identifications set forth in the claim.

As a result, a *prima facie* rejection is not made out. For example, the fact that Stakutis does or does not like to know where each file is laid out is a teaching of the general, not as specific as what is claimed. The general proposition that you would like to know where the files are does not teach identifying whether a portion of a file system is stored in one place or another, and it does not teach storing the file system in one place when it is previously stored in another place when it has been streamed. The general teaching cannot meet the specific claimed limitations.

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Therefore, reconsideration would be appropriate.

Respectfully submitted,

Date: <u>April 10, 2006</u>

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